

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH PAGAN, on behalf of himself :
and all others similarly situated, :
Plaintiff, : CIVIL NO. 08-0751
v. :
THE NEW WILSON'S MEATS, INC. :
et al. :
Defendants.

ORDER

AND NOW, this 4th day of September, 2009, upon consideration of: Defendants The New Wilson's Meats, Inc., Wilson's Famous Blue Ribbon Meats, Inc. and Dean Kanefksy's Motion to Dismiss Plaintiff's Complaint (Doc. No. 14);¹ Plaintiff's Response in Opposition thereto (Doc. No. 15); Defendants' Reply Brief (Doc. No. 16); Plaintiff's Surreply Brief (Doc. No. 20); and, arguments presented before this Court on April 29, 2009, it is hereby ORDERED and DECREED that said Motion is DENIED in its entirety.

It is further ORDERED and DECREED that Plaintiff's request for an award of fees and costs in this matter is DENIED.

BY THE COURT:

/s/ C. Darnell Jones II J.

¹ Defendants Wilson's Meats, Inc. and Wilson's Famous Blue Ribbon Meats, Inc. are alleging that Plaintiff lacks standing to bring his claims against them and that said claims should be dismissed pursuant to Fed.R.Civ.P. 12(b)(1). Defendant Dean Kanefsky is claiming that he was not Plaintiff's "employer" and that Plaintiff's claims against him must be dismissed pursuant to Fed.R.Civ.P. 12(b)(6), or in the alternative, summary judgment must be granted pursuant to Fed.R.Civ.P. 56. Inasmuch as all parties have submitted - and this Court has considered - evidence outside of the pleadings, Defendant Dean Kanefsky's Motion for dismissal has been converted to one for summary judgment.